IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.280 OF 2006
IN
COMPANY PETITION NO.7 OF 1984

Bandu Ravji Magdum Applicant

versus

Official Liquidator Respondent
M/s.W.G.Forge & Allied Ind.Ltd.

Mr.V.A.Sonpal with Ms.G.P.Thakur for applicant.
Ms.K.V.Gautam, Dy.O.L. acting as O.L.present.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 6th July 2006

PC :

1. This Company Application seeks following reliefs :-

> "(a) That this Hon'ble Court to direct the Official Liquidator to make the payment of Rs.30,18,620.59 in addition to interest at the rate of 4% from 1st April 2004 till the date of payment.
>
> (b) That this Hon'ble Court to direct the Official Liquidator not to disburse any amount to any creditors till the present Applicant is paid."

2. After having heard Shri Sonpal at great length as also the Deputy Official Liquidator who is presently acting as Official Liquidator of the company in liquidation and perusing the reply filed to this company application, I am of the view that in the light of specific statement in para 5 of the affidavit in reply and the Official Liquidator being desirous of exercising powers conferred upon him by Rule 176 of Companies (Court) Rules, 1959, interest of justice would be subserved if the issue of priority of applicants' claim is kept open. The same is kept open in the light of Official Liquidator's stand that it seeks to readjudicate the claim of applicant atleast to the extent of Rs.16,86,384=59 Ps.. I am not going into the aspect as to whether in the facts and circumstances of present case the power under Rule 176 can be exercised and if capable of being exercised, to what extent. All contentions of the applicant in that behalf are expressly kept open.

3. Subject to such readjudication by the Official Liquidator and orders passed pursuant thereto the applicants contention with regard to priority of its claim is kept open and will be decided at an appropriate stage. All contentions

of applicant as well as Official Liquidator in that behalf are expressly kept open. Liberty is given to the applicant to apply in that behalf. The disposal of this Company Application in the light of the statement of the Official Liquidator, does not prevent the applicant from making appropriate submissions with regard to readjudication and readmissibility of the claim and the exercise of power by the Official Liquidator under Rule 176 so also its claim being in the nature of trust and ranking higher than that of the creditors including secured creditors or atleast on par with them. The Official Liquidator makes a statement that it will decide whether invoking Rule 176 in the facts and circumstances of this case is necessary and if decision is taken to so invoke it, the entire exercise thereunder would be completed within a period of eight weeks from today.

4. The Official Liquidator makes a statement that for a period of six weeks from today the amount of Rs.30.00 lakh will not be disbursed and will be kept aside. Company Application stands disposed of in the above terms with no order as to costs.

(S.C.DHARMADHIKARI, J.)